

Docket No.: 2005 P 12928 US
App. No.: 09/843,289

REMARKS

Claims 25-100 are pending in the Application.

Claim Rejections - 35 U.S.C. § 102

The Patent Office rejected claims 25, 27, 29, 36, 38, 41-42, 45-47, 49-50, 54-55, 57-58, 61, 68, 70-71, 74-75, 77-78, 80, 81, 84, 91, 96-97 and 100 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,346,964 by Rogers, ("Rogers").

Applicant respectfully traverses. The present invention provides a novel method for distributing lists of available channels to subscriber units. Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. *W.L. Gore & Assocs. v. Garlock*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984). Further, "anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim." *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983). Emphasis added.

Applicant respectfully submits claims 25, 46, 58, 75 and 81 include elements which have not been disclosed, taught or suggested by Rogers. For example, claims 25, 46, 58, 75 and 81 generally recite receiving from a subscriber unit a request for a listing of available channels, the request including information identifying a subscriber. Rogers fails to teach, disclose or suggest receiving a request which includes information identifying a subscriber. Emphasis Added. The Patent Office cites FIG. 7A, step 701 for support of its assertion that Rogers discloses receiving a request which includes information identifying a subscriber. However, Rogers fails to disclose any information identifying the subscriber is included with a request for a listing of available channels. Rather, Rogers states "a request is transmitted over the data channel through modem/diplexer 241, through modem/diplexer 251, and is received in controller 257." (Rogers, Column 12, Lines 25-30). In Rogers, a user places telephone "calls" to request a list of channels to other users by sending information to the broadband data switch when then attempts to connect to the desired recipient's equipment. If the call is answered, video is established. (Rogers, Column 4, Line 60 -

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Column 5, Line 11). The call, made by dialing a telephone number or equivalent, is placed without any identification of a subscriber. Consequently, an element of claims 25, 46, 58, 75 and 81 has not been disclosed, taught or suggested by Rogers. Under *Lindemann*, a *prima facie* case of anticipation has not been established for claims 25, 46, 58, 75 and 81. Claims 27, 29, 36, 38, 41-42, 45, 47, 49-50, 54-55, 57, 61, 68, 70-71, 74, 77-78, 80, 84, 91, 96-97 and 100 are believed allowable due to their dependence upon an allowable base claim.

Additionally, claims 25, 46, 58, 75 generally recite receiving from a subscriber unit a request for a list of available channels, the request being sent using HTTP protocol. Rogers fails to teach, disclose or suggest receiving a request sent using HTTP protocol. Emphasis Added. The Patent Office cites FIG. 7A, step 701 for support of its assertion that Rogers discloses receiving a request using HTTP protocol. However, Rogers states a user places telephone video "calls" to other users by sending information to the broadband data switch when then attempts to connect to the desired recipient's equipment by dialing a recipients telephone or extension. If the call is answered, video is established. (Rogers, Column 4, Line 60 – Column 5, Line 11). The telephone call request is not sent using HTTP protocol. In fact, a word search of Rogers did not find any mention of HTTP protocol. Consequently, another element of claims 25, 46, 58 and 75 has not been disclosed, taught or suggested by Rogers.

Claim Rejections - 35 U.S.C. § 103

The Patent Office rejected claims 33-34, 65-66, 88-89 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,346,964 by Rogers, ("Rogers") in view of IEEE-1996, Techniques for Improving the Capacity of Video on Demand by Hari, ("Hari") in further view of U.S. Patent No. 6,324,163 by Alexanders, ("Alexanders").

The Patent Office rejected claims 28, 30-31, 37, 48, 51, 60, 62-63, 69, 76, 79, 83, 85-86 and 92 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,346,964 by Rogers, ("Rogers") in view of IEEE-1996, Techniques for Improving the Capacity of Video on Demand by Hari, ("Hari").

The Patent Office rejected claims 26, 32, 35, 39-40, 44, 52-53, 59, 64, 67, 73, 82, 87, 90, 94-95, and 99 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,346,964 by Rogers, ("Rogers") in view of U.S. Patent No. 6,011,782 by DeSimone, ("DeSimone").

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The Patent Office rejected claims 43, 56, 72 and 98 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,346,964 by Rogers, ("Rogers") in view of U.S. Patent No. 5,903,559 by Acharya, ("Acharya").

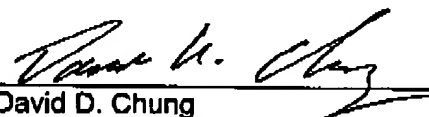
Applicant respectfully traverses each rejection under 35 U.S.C. § 103(a). Claims 26, 28, 30-35, 37, 39-40, 43-44, 48, 51-53, 56, 59-60, 62-67, 69, 72-73, 76, 79, 82-83, 85-90, 92, 94-95 and 98-99 are believed allowable as being dependent upon an allowable base claim as previously described.

Conclusion

Applicants respectfully submit that all claims are allowable, and it is respectfully requested that the entire application now be passed to formal allowance.

Respectfully Submitted,

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